

Circuit Court for Wicomico County
Case No. C-22-CR-23-000275

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2316

September Term, 2023

LAHMAR J. CONNOR

v.

STATE OF MARYLAND

Leahy,
Zic,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: July 17, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following the denial of a motion to suppress by the Circuit Court for Wicomico County, the appellant, Lahmar J. Connor, pleaded not guilty with an agreed statement of facts to two counts: illegal firearm possession and possession of cannabis with the intent to distribute. For the firearm conviction, the court sentenced Mr. Connor to five years of incarceration, with all but one year suspended, to be served on home detention. For the possession with the intent to distribute conviction, the court sentenced Mr. Connor to two years of incarceration, all suspended, consecutive to the firearm conviction sentence. Lastly, the court placed Mr. Connor on supervised probation for three years.

QUESTIONS PRESENTED

On appeal, Mr. Connor presents two questions for our review:

1. Did the trial court err in denying the motion to suppress?
2. Was the evidence insufficient to support the convictions for illegal firearm possession and cannabis possession with intent to distribute?

For the following reasons, we affirm the judgments of the circuit court.

BACKGROUND

The First Search Warrant

On March 17, 2023, Detective Burt of the Salisbury Police Department applied for a search and seizure warrant for 115 Halsey Drive in Salisbury, Maryland, which sought to search the address to find “the body of” and “[i]nformation pertaining to the whereabouts of” Mr. Connor, who was a “fugitive from justice.” Detective Burt’s accompanying affidavit contained the following information.

On November 22, 2022, the Salisbury Police Department received a call that Mr. Connor had displayed and pointed a handgun at his ex-girlfriend at 203 Mill Woods Circle, Salisbury, Maryland.¹ Police arrived at the address and unsuccessfully pursued a suspect who fled on foot. Police located a firearm and other evidence discarded on the suspect's flight path.

This incident prompted police to apply for an arrest warrant for Mr. Connor in the District Court of Maryland for Wicomico County. The warrant covered several charges: illegal firearm possession, handgun possession, disorderly conduct, reckless endangerment, and second-degree assault. The search warrant application stated that Mr. Connor's arrest warrant was active (i.e., unserved) and that he was a fugitive.

To locate Mr. Connor, the Salisbury Police Department teamed with the United States Marshal Service Capital Area Regional Fugitive Task Force. Investigators identified Mr. Connor's last two known addresses; however, they did not locate him at either residence. Fugitive investigators researched Mr. Connor's family and associates. They focused on Rodney Rutherford, Jr., Mr. Connor's half-brother, who lived at 115 Halsey Drive, Salisbury, Maryland.

Detective Burt's affidavit stated that investigators had conducted surveillance at 115 Halsey Drive "on numerous occasions" and observed a subject matching Mr.

¹ The second search warrant application, which is discussed below, has a date discrepancy involving the incident with Mr. Connor's ex-girlfriend. It mentions a police response on November 11, 2022, but also describes witness statements recounting the incident on November 22, 2022. The warrant applications otherwise confirm that November 22 was the actual incident date. This minor inconsistency has no bearing on our analysis.

Connor’s characteristics leaving the rear door of the residence. Investigators, however, could not view the subject’s face because of “a face covering/hooded sweatshirt which covered most of the facial features.”

Fugitive investigators obtained a court order to access data from a Facebook account and then secured an Internet Protocol (“IP”) address linked to Mr. Rutherford. Police learned that Comcast owned the IP address and that Mr. Rutherford was the account holder at 115 Halsey Drive.

As for Mr. Connor, investigators received a tip that he was residing in the South Division Street area and that he was driving a silver Nissan Altima. On February 15, 2023, a police officer observed Mr. Connor driving a silver Nissan Altima “in the area of S. Division Street and Eastern Shore Drive” and conducted a traffic stop. Mr. Connor fled from the traffic stop and police terminated the pursuit. Based on this information, Detective Burt concluded in his affidavit that there was probable cause to believe Mr. Rutherford was harboring Mr. Connor at 115 Halsey Drive.

A circuit court judge signed the first search warrant on March 17, 2023. In the early morning of March 22, 2023, the Salisbury Police Department Tactical Team executed the first search warrant at 115 Halsey Drive. Police located Mr. Connor inside the residence. While at the residence, at 8:09 a.m., Detective Ross of the Salisbury Police Department applied for a second search warrant for the same residence.

The Second Search Warrant

In his affidavit attached to the second search warrant application, Detective Ross sought to search for firearms, firearm accessories, ammunition, and evidence related to controlled dangerous substances at the residence. The affidavit described the November 2022 incident with Mr. Connor's ex-girlfriend in more detail, including her claim that Mr. Connor had waved a black handgun at her and her friend at her apartment. Police believed that firearm was not yet recovered. Detective Ross also noted that Mr. Connor's June 2012 conviction for second-degree assault prohibited him from possessing a regulated firearm.

Another circuit court judge signed the second search warrant. During the search, police found a Polymer80 handgun and magazine in the toilet tank of the second-floor bathroom. Police also discovered another individual hiding in the shower of the second-floor bathroom. Additionally, numerous packages of cannabis and related paraphernalia were discovered throughout the residence. Officers also collected cash totaling \$4,216 from Mr. Connor's person.

The Suppression Hearing

In November 2023, the court heard arguments on Mr. Connor's motion to suppress the evidence found at 115 Halsey Drive. Through his counsel, Mr. Connor argued that both search warrants lacked probable cause. Mr. Connor claimed that the first search warrant lacked a sufficient nexus based on minimal facts, i.e., Mr. Rutherford was his half-brother, and police observed someone who may have looked like Mr. Connor exit the premises with his face obscured. As for the second search warrant, Mr. Connor

argued that officers provided inconsistencies about the November 2022 incident in the two warrant applications. Mr. Connor also asserted that the only evidence offered in the second warrant was the statement that “[t]hrough investigation, it was learned that [Mr.] Connor resides at 115 Halsey Drive” and that his mere presence at 115 Halsey Drive failed to establish probable cause to believe firearms existed there.

The State defended the validity of both search warrants. For the first warrant, the State noted that investigators had pieced together evidence to determine Mr. Connor’s location and reasonably concluded he was staying with his half-brother. The State maintained that the warrant contained additional facts not mentioned by the defense that support probable cause, specifically that police attempted a traffic stop of Mr. Connor less than a mile from 115 Halsey Drive about a month before executing the search warrant.

The court took the matter under advisement and issued a memorandum opinion and order denying Mr. Connor’s motion to suppress. The court ruled that the first search warrant application lacked probable cause. The court found that “the most logical inference from observations of a man exiting the rear door of” Mr. Rutherford’s residence was that police observed Mr. Rutherford, not Mr. Connor. The court also found that the good faith exception to the exclusionary rule did not apply to the first warrant.

Still, the court ruled that the arrest of Mr. Connor was valid because it resulted from an unchallenged arrest warrant issued in another case. The court examined precedent and determined that the “body” of Mr. Connor was not suppressible under the Fourth Amendment.

For the second search warrant, the court found that the affidavit contained “sufficient supporting factual allegations to support issuance of a search warrant for firearms and firearms accessories.” The court additionally found that there were insufficient facts regarding controlled dangerous substances. The court ruled, however, that there was “no evidence to sustain the granting of relief on [that] ground.” The court found that the information in the second warrant application was not stale, despite a four-month gap between the November 2022 allegations and the warrant issuance, because “a firearm is an object that does not dissipate or deteriorate with the passage of time[,] and [it is] more likely than most evidence or instrument[s] of crime [to] be kept and preserved.”

The Not Guilty Plea With An Agreed Statement Of Facts

On January 31, 2024, Mr. Connor pleaded not guilty with an agreed statement of facts. In exchange for this plea, the State proceeded with two counts: count 2, illegal possession of a firearm, and count 5, possession with intent to distribute cannabis. The agreed statement of facts included the following details.

On March 22, 2023, when officers visited 115 Halsey Drive to execute the search warrant, they surrounded the front and back of the premises and knocked and announced their presence. Mr. Rutherford opened the door within two minutes and was detained outside without further incident.

Officers then made contact with Mr. Connor, who remained on the second floor of the residence. For approximately 20 minutes, Mr. Connor interacted with officers while moving around on the second floor and negotiating his descent. Mr. Connor eventually

walked down the stairs, presented himself to the officers, and was taken into custody.

When officers searched Mr. Connor, they located \$4,216 in cash on his person.

After detaining Mr. Conner, officers proceeded to the second floor and found another individual hiding in the shower of the second-floor bathroom. Police removed the individual from the shower and arrested him. After removing Mr. Rutherford, Mr. Connor, and the third individual from the residence, the officers began their search.

Officers discovered various packages of suspected cannabis throughout the first floor of the residence. In a utility closet on the first floor, police recovered a large suitcase containing 18 bags of suspected cannabis with weights ranging from 153 grams to 198 grams and a grey backpack containing nine items of suspected cannabis weighing between 51 grams and 61 grams. In the dining room, officers found an Adidas fanny-pack containing 11 packets of suspected marijuana and two additional bags of suspected marijuana, as well as a camouflage backpack containing multiple items of “suspected cannabis, as well as some gummies and THC oil.”

All suspected cannabis was sent to a lab, where six samples drawn from various packages tested positive for cannabis.

On the second floor, officers located a fully furnished bedroom that appeared to be Mr. Connor’s established residence. In this bedroom, officers found cash totaling \$407.95 in three separate locations in a series of bookshelves.

In the toilet tank of the second-floor bathroom, officers found a Polymer handgun and magazine. DNA testing on the handgun indicated one significant contributor, but none of the individuals in the house were included as the significant contributor. The

testing indicated at least three other contributors, but there was insufficient genetic information to draw any conclusions about their DNA profiles. The State confirmed that the gun was found in “the only bathroom that could have been utilized by any of the individuals that were residing there.”

The court accepted the agreed statement of facts and found beyond a reasonable doubt that there was sufficient evidence to establish Mr. Connor’s guilt for illegal possession of a regulated firearm and possession of cannabis with the intent to distribute.

Mr. Connor timely appealed.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN DENYING THE MOTION TO SUPPRESS.

A. Standard Of Review

“In reviewing the rulings of the suppression courts, we rely solely upon the record developed at the suppression hearings.” *Kelly v. State*, 436 Md. 406, 420 (2013) (citing *Lee v. State*, 418 Md. 136, 148 (2011)). ““We defer to the motions court’s factual findings and uphold them unless they are shown to be clearly erroneous.”” *Lee*, 418 Md. at 148 (quoting *State v. Lockett*, 413 Md. 360, 375 n.3 (2010)). The evidence and reasonable inferences are considered ““in the light most favorable to the party who prevails on the motion[.]”” *Whittington v. State*, 474 Md. 1, 20 (2021) (quoting *Kelly*, 436 Md. at 420).

“When a party raises a constitutional challenge to a search or seizure, we undertake an ‘independent constitutional evaluation by reviewing the relevant law and

applying it to the unique facts and circumstances of the case.” *Trott v. State*, 473 Md. 245, 254 (2021) (quoting *Grant v. State*, 449 Md. 1, 14-15 (2016)). “The ultimate question as to whether there was a constitutional violation of the Fourth Amendment is a legal question on which we accord no special deference to the trial court.” *Whittington*, 474 Md. at 20 (cleaned up). “The application of whether the good faith exception to the exclusionary rule of the Fourth Amendment applies also is a legal issue that we review without deference.” *Id.*

B. The Good Faith Exception Applies To The First Warrant

We begin with an examination of the first search warrant. Mr. Connor argues that the circuit court correctly ruled that the first search warrant was not supported by probable cause and that the good faith exception did not apply. The State first argues that, contrary to the circuit court’s ruling, officers reasonably relied on the first search warrant in good faith. The State does not make any argument as to whether the first warrant had sufficient probable cause. As such, we will address only whether the good faith exception applies to the first warrant, without deciding whether the warrant was supported by sufficient probable cause.

The Fourth Amendment to the United States Constitution, made applicable to the states via the Fourteenth Amendment,² states as follows:

The right of the people to be secure in their persons, houses,
papers, and effects, against unreasonable searches and
seizures, shall not be violated, and no Warrants shall issue,

² *Mapp v. Ohio*, 367 U.S. 643, 654-55 (1961) (stating that “the Fourth Amendment’s right of privacy has been declared enforceable against the States through the Due Process Clause of the Fourteenth[Amendment]”).

but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. CONST. amend. IV.

“Reasonableness within the meaning of the Fourth Amendment generally requires the obtaining of a judicial warrant.” *State v. Johnson*, 458 Md. 519, 533 (2018) (cleaned up). A warrant must be supported by probable cause, which is “a ‘practical, nontechnical conception’ that deals with ‘the factual and practical considerations of everyday life on which reasonable and prudent [individuals], not legal technicians, act.’” *Maryland v. Pringle*, 540 U.S. 366, 370 (2003) (quoting *Illinois v. Gates*, 462 U.S. 213, 231 (1983)). Ultimately, “the substance of all the definitions of probable cause is a reasonable ground for belief of guilt and that the belief of guilt must be particularized with respect to the person to be searched or seized.” *Pringle*, 540 U.S. at 371 (cleaned up). “[S]o long as the magistrate had a substantial basis for concluding that a search would uncover evidence of wrongdoing, the Fourth Amendment requires no more.” *Gates*, 462 U.S. at 236 (cleaned up).

In *United States v. Leon*, the Supreme Court of the United States held that evidence seized under a warrant, subsequently determined to be invalid, may be admissible if the officers executing the warrant acted in objective good faith and with reasonable reliance on the warrant. 468 U.S. 897, 919-21 (1984). The Supreme Court reasoned that “the exclusionary rule is designed to deter police misconduct rather than to punish the errors of judges and magistrates[.]” and thus the exclusionary rule “cannot be

expected, and should not be applied, to deter objectively reasonable law enforcement activity.” *Id.* at 916, 919.

Still, there are circumstances when police are unable to reasonably rely on a warrant later determined to be invalid:

Suppression therefore remains an appropriate remedy if [1] the magistrate or judge in issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth. The exception we recognize today will also not apply in cases where [2] the issuing magistrate wholly abandoned his judicial role . . . [and] no reasonably well trained officer should rely on the warrant. Nor would an officer manifest objective good faith in [3] relying on a warrant based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable. Finally, [4] depending on the circumstances of the particular case, a warrant may be so facially deficient — i.e., in failing to particularize the place to be searched or the things to be seized — that the executing officers cannot reasonably presume it to be valid.

Id. at 923 (cleaned up and bracketed numbers added). Our focus is on the third exception, which “was clearly intended to deal with a purely conclusory statement in a warrant application backed up by no further supporting data[,]” or “warrant applications which were nothing beyond mere conclusions[.]” *State v. Jenkins*, 178 Md. App. 156, 202-03 (2008).

Here, Detective Burt sought the first search warrant for fugitive apprehension purposes i.e., to search 115 Halsey Drive to find “the body of” and “[i]nformation pertaining to the whereabouts of” Mr. Connor. The first warrant application included the following relevant details:

- Mr. Connor had “an active arrest warrant with the Wicomico County District Court of Maryland[.]”
- “On 23 November 2022, Fugitive investigators . . . began the fugitive investigation into locating” Mr. Connor.
- “Fugitive investigators are familiar with [Mr.] Connor who assaulted an officer by pushing [the officer] and then fled from police on foot during a warrant apprehension.”
- Fugitive investigators were unable to locate Mr. Connor at his two last known addresses.
- Mr. Connor and Mr. Rutherford are half-brothers.
- “Fugitive investigators have identified a current address for [Mr.] Rutherford [] to be 115 Halsey Drive Salisbury, MD.”
- An anonymous tip to the Salisbury Police dispatch center “indicated [Mr.] Connor resides near the S. Division street area and has been driving a silver in color Altima[.]”
- Mr. Connor fled from a traffic stop less than a mile away from 115 Halsey Drive about one month before the first warrant’s execution.³

³ The first search warrant application confirmed that on February 15, 2023, a police officer observed Mr. Connor driving a silver Nissan Altima “in the area of S. Division Street and Eastern Shore Drive[.]” and then Mr. Connor fled from an attempted traffic stop there. This location and car make, model, and color corroborated other information in the search warrant application: police received a tip from an unknown source, indicating that Mr. Connor was residing near South Division Street and driving a silver Nissan Altima. According to Google Maps, 115 Halsey Drive is half a mile from

- Fugitive investigators “conducted surveillance at . . . 115 Halsey Drive on numerous occasions and observed a subject matching [Mr. Connor’s] characteristics leaving the rear door” while concealing his face.

Taken together, these facts in the first search warrant application show that Mr. Connor fled from police, had an outstanding arrest warrant, gained a fugitive status, was not present at his last two known addresses, and is related to Mr. Rutherford, who was linked to 115 Halsey Drive. In addition, the anonymous tip and recent traffic stop, when Mr. Connor again fled from police, placed him near 115 Halsey Drive. These facts show a nexus between Mr. Connor and 115 Halsey Drive. Considering all this information collectively, the warrant application was not “so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.” *Leon*, 468 U.S. at 923 (citations omitted). In sum, the warrant application supplied “some indicia of probable cause” to search 115 Halsey Drive for “the body of” Mr. Connor and information related to his whereabouts. *Patterson v. State*, 401 Md. 76, 108 (2007).

We hold that the good faith exception applies to the first search warrant. Further, based on our application of the good faith exception, we conclude the first search warrant did not trigger the exclusionary rule and did not taint the second warrant application. In light of our conclusion, we decline to address Mr. Connor’s argument that his presence

the convergence point of South Division Street and Eastern Shore Drive, where the traffic stop was attempted. (South Division Street becomes Eastern Shore Drive at the intersection with College Avenue.) *E.g.*, *Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 442 n.7 (2003) (using MapQuest to compare driving distance and travel time between a home and courthouses). *See also Pahls v. Thomas*, 718 F.3d 1210, 1216 n.1 (10th Cir. 2013) (taking judicial notice of Google Maps and satellite images).

inside 115 Halsey Drive was the suppressible fruit of the poisonous tree discovered during the execution of the first search warrant.

D. There Was A Substantial Basis For The Second Warrant

Having concluded that the good faith exception applies to the first warrant, and that the first warrant did not taint the second warrant, we now briefly address whether the circuit court erred in finding that the second warrant application contained a substantial basis for probable cause. Mr. Connor contends that, once his presence is excised from the second warrant application, the remaining information lacks sufficient facts to establish probable cause. Mr. Connor makes no argument as to whether there is a substantial basis to support the second warrant application if none of the information is excised.

In response, the State does not expressly argue that the second warrant contained a substantial basis for probable cause. Instead, the State asserts that, if Mr. Connor argues that “the second warrant is invalid *even if* no information is excised from the warrant application,” police could, at least, “reasonably rely on the warrant in good faith.”

We consider only the “information provided in the warrant and its accompanying application documents.” *Greenstreet v. State*, 392 Md. 652, 669 (2006). An appellate court determines “whether the issuing judge had a substantial basis to conclude that the warrant was supported by probable cause.” *Id.* at 667. Probable cause requires not only that the person is suspected of wrongdoing but that the specific place to be searched is tied to the suspected crime. *Agurs v. State*, 415 Md. 62, 75-76 (2010). “[A]n affidavit supporting a search warrant request must show some basis for the belief that the suspect

occupies or is otherwise connected to the targeted premises.” *Braxton v. State*, 123 Md. App. 599, 629 (1998).

The second search warrant application contained the following significant facts. First, Mr. Connor allegedly threatened his ex-girlfriend with a handgun four months before the search warrant, with two witnesses (the ex-girlfriend and her friend) observing the gun in his hand. Second, Mr. Connor’s ex-girlfriend reported that he had “threaten[ed] her with a gun several times in the past[,]” suggesting a pattern of firearm possession. Third, police believed that Mr. Connor’s gun (brandished during the November 2022 incident) had not yet been recovered. Fourth, Mr. Connor had a 2012 conviction for second-degree assault which prohibited him from possessing a regulated firearm. *See* Maryland Code Ann., Pub. Safety § 5-133(b) (2003, 2022 Repl. Vol.). Finally, the warrant application stated that “[t]hrough investigation, it was learned that [Mr.] Connor resides at 115 Halsey Drive” and that police responded to that address “and located [Mr.] Connor inside of the residence.”

Moreover, the affiant stated that he “knows through his training, knowledge, and experience that individuals will often store firearms in the places where they are residing in order to protect themselves and their property.” In addition, the affiant confirmed that “he knows through his training, knowledge and experience as a [police] officer that often times individuals will use their residence to store evidence, such as a gun, that was previously used to commit a crime.” These statements supported the nexus between Mr. Connor’s alleged firearm possession and 115 Halsey Drive.

Considering these facts collectively, we conclude that the issuing judge had a substantial basis to find probable cause to search the residence for firearms and ammunition.⁴ Although the November 2022 incident occurred four months before the second warrant application, firearms are durable items. Indeed, as the circuit court properly noted in rejecting Mr. Connor’s staleness argument: “a firearm is an object that does not dissipate or deteriorate with the passage of time and [is] more likely than most evidence or instrument[s] of crime [to] be kept and preserved.”

Regarding the search for controlled dangerous substances, Mr. Connor quotes the circuit court’s order and argues that there were “no supporting factual allegations with respect to the controlled dangerous substances” in the second search warrant. While we agree that the warrant application lacked factual support to search for controlled dangerous substances, police discovered such substances during a valid search for firearms and ammunition. As the circuit court correctly observed, “there are a variety of means by which controlled dangerous substances could properly be seized, including being in plain sight[.]” Mr. Connor does not argue before us that the controlled dangerous substances were not in plain sight. We decline to disturb the finding of the circuit court and, thus, “relief on that ground is unwarranted.”

⁴ Even if the issuing judge lacked a substantial basis to find probable cause for the second warrant, officers could still rely on the warrant in good faith. The application contained “some indicia of probable cause” for the appellant’s firearm possession, considering the likelihood that the firearm remained in his possession and the reasonable inference that he might store the firearm at his residence. *Patterson*, 401 Md. at 108. The good faith exception would apply under *Patterson* because “the application for the search warrant provided sufficient evidence to create disagreement among thoughtful and competent judges as to the existence of probable cause.” *Id.* at 109.

For these reasons, we affirm the circuit court’s denial of Mr. Connor’s motion to suppress.

II. THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE CONVICTIONS FOR ILLEGAL FIREARM POSSESSION AND CANNABIS POSSESSION WITH INTENT TO DISTRIBUTE.

Mr. Connor challenges the legal sufficiency of the evidence supporting his convictions for illegal firearm possession and cannabis possession with intent to distribute. He contends that the agreed statement of facts failed to establish his constructive possession of the handgun found in the second-floor toilet tank and the cannabis found on the first floor of the residence. Mr. Connor emphasizes that when police found the handgun, it was closest to another individual, who was hiding in the shower of the same bathroom. He additionally argues that carrying cash, without more, is insufficient to connect him to the cannabis found in the common areas of the house.

The State maintains that the evidence was legally sufficient to establish constructive possession of both the firearm and cannabis. The State points to evidence that: (1) Mr. Connor resided in a bedroom on the second floor; (2) the bathroom containing the firearm was “the only bathroom that could have been utilized by any of the individuals that were residing there”; (3) officers found substantial cash both on Mr. Connor’s person and in his bedroom; and (4) the cannabis was found in accessible containers in the house where he resided.

In *Howling v. State*, the Supreme Court of Maryland held:

In assessing the sufficiency of the evidence to sustain a criminal conviction, it is the responsibility of the appellate court to determine whether, after viewing the evidence in the

light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

478 Md. 472, 507 (2022) (internal citations and quotations omitted). *See also Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (setting forth this standard). We ask ““whether the verdict was supported by sufficient evidence, direct or circumstantial, which could fairly convince a trier of fact of the defendant’s guilt of the offenses charged beyond a reasonable doubt.”” *O’Sullivan v. State*, 476 Md. 602, 627 (2021) (quoting *State v. Manion*, 442 Md. 419, 431 (2015)).

Possession is an element of both offenses at issue here. Maryland Code Ann., Criminal Law (“CL”) § 5-101(v) defines “possess” as “to exercise actual or constructive dominion or control over a thing by one or more persons.” Possession thus “may be constructive or actual, exclusive, or joint.” *Belote v. State*, 199 Md. App. 46, 55 (2011).

In determining joint or constructive possession, courts consider four factors:

1) proximity between the defendant and the contraband, 2) the fact that the contraband was within the view or otherwise within the knowledge of the defendant, 3) ownership or some possessory right in the premises or the automobile in which the contraband is found, or 4) the presence of circumstances from which a reasonable inference could be drawn that the defendant was participating with others in the mutual use and enjoyment of the contraband.

Moseley v. State, 245 Md. App. 491, 505 (2020) (cleaned up).

Viewed in the light most favorable to the State, the evidence was sufficient to support a finding that Mr. Connor possessed the handgun found in the second-floor bathroom. Mr. Connor had a possessory interest in the house, evidenced by his

established residence in a second-floor bedroom that was “fully furnished” with cash inside “a series of bookshelves that Mr. Connor had placed in the bedroom.”

Furthermore, as the State highlighted, the bathroom where the gun was found was “the only bathroom that could have been utilized by any of the individuals that were residing there[,]” and the bathroom was “accessible to all three of the bedrooms which were located on the second floor[,]” including Mr. Connor’s. Thus, a reasonable factfinder could infer that Mr. Connor had access to and control over the bathroom where the firearm was located.⁵

The evidence was also sufficient to support a finding that Mr. Connor constructively possessed the cannabis with intent to distribute. Again, we note that Mr. Connor had a possessory interest in the residence. The cannabis was found in common areas accessible to him: a utility closet in the hallway between the front entry and living room, and the dining room, which was located “immediately to the right upon entry into the front door.”

Police found \$4,216 in cash on Mr. Connor’s person and additional cash (\$221, \$142, and \$44.95) in his bedroom in different locations inside the bookshelves. Under the agreed statement of facts, the State proffered that if the case had been tried, an expert would have testified that “the amount of marijuana, the different ways that it was packaged, it was . . . for more, much more than one person’s use and it was believed

⁵ Although another individual was found hiding in the shower of the bathroom where the gun was located, possession can be either joint or exclusive. *See* CL § 5-101(v).

along with the location of all the cash that the cannabis was for the purposes of distribution.” In *State v. Gutierrez*, 446 Md. 221, 231 (2016), the Supreme Court of Maryland addressed “whether two persons may be found guilty of possession of a controlled dangerous substance (‘CDS’) with an intent to distribute . . . when neither actually had the [] drugs in hand, but each was allegedly in constructive possession[.]” Specifically addressing the fourth factor, the Court stated, “the concept of ‘mutual use and enjoyment,’ not only is actual use contemplated but also whether individuals participated in drug distribution” and ultimately held that both defendants constructively possessed the CDS. *Id.* at 237, 241. Applying the same analysis here, a reasonable inference could be drawn that Mr. Connor was participating with others in the mutual use and enjoyment of the contraband.

A rational factfinder could reasonably infer that Mr. Connor exercised dominion and control over the cannabis in the residence. The substantial amount of cash on his person, combined with the proffered expert opinion linking the cannabis to distribution activity, provided compelling circumstantial evidence of Mr. Connor’s possession of cannabis with the intent to distribute. Indeed, “[t]he law makes no distinction between the weight to be given to either direct or circumstantial evidence.” Md. Criminal Pattern Jury Instructions, 3:01 Direct and Circumstantial Evidence. *Accord Mangum v. State*, 342 Md. 392, 398-400 (1996) (reaffirming that there is no inherent difference in the persuasiveness of direct and circumstantial evidence).

For all these reasons, the evidence was sufficient to find Mr. Connor guilty of illegal firearm possession and possession of cannabis with the intent to distribute.

CONCLUSION

We hold that the circuit court did not err when it denied Mr. Connor's motion to suppress because the second search warrant was not tainted by the first search warrant, which could reasonably be relied upon in good faith. We additionally hold that the evidence was sufficient to find Mr. Connor guilty of illegal firearm possession and possession of cannabis with the intent to distribute.

**JUDGMENTS OF THE CIRCUIT COURT
FOR WICOMICO COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**